

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSE ARTEAGA,

Plaintiff,

v.

R. DECKER, et al.,

Defendants.

No. 2:25-cv-1303 CSK P

ORDER

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983 and requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a). Accordingly, the request to proceed in forma pauperis is granted.

Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). By this order, plaintiff is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C. § 1915(b)(1). By separate order, the court will direct the appropriate agency to collect the initial partial filing fee from plaintiff's trust account and forward it to the Clerk of the Court. Thereafter, plaintiff is obligated to make monthly payments of twenty percent of the preceding month's income credited to plaintiff's trust account. These payments will be forwarded by the appropriate agency to the Clerk of the Court each time the

1 amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C.  
2 § 1915(b)(2).

3 As discussed below, plaintiff's complaint is dismissed with leave to amend.

#### 4 I. SCREENING STANDARDS

5 The court is required to screen complaints brought by prisoners seeking relief against a  
6 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The  
7 court must dismiss a complaint or portion thereof if the prisoner raised claims that are legally  
8 "frivolous or malicious," that fail to state a claim upon which relief may be granted, or that seek  
9 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2).

10 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.  
11 Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th  
12 Cir. 1984). The court may, therefore, dismiss a claim as frivolous when it is based on an  
13 indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke,  
14 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully  
15 pleaded, has an arguable legal and factual basis. See Jackson v. Arizona, 885 F.2d 639, 640 (9th  
16 Cir. 1989), superseded by statute as stated in Lopez v. Smith, 203 F.3d 1122, 1130-31 (9th Cir.  
17 2000) ("[A] judge may dismiss [in forma pauperis] claims which are based on indisputably  
18 meritless legal theories or whose factual contentions are clearly baseless."); Franklin, 745 F.2d at  
19 1227.

20 Rule 8(a)(2) of the Federal Rules of Civil Procedure "requires only 'a short and plain  
21 statement of the claim showing that the pleader is entitled to relief,' in order to 'give the  
22 defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" Bell Atlantic  
23 Corp. v. Twombly, 550 U.S. 544, 555 (2007) (quoting Conley v. Gibson, 355 U.S. 41, 47 (1957)).  
24 In order to survive dismissal for failure to state a claim, a complaint must contain more than "a  
25 formulaic recitation of the elements of a cause of action;" it must contain factual allegations  
26 sufficient "to raise a right to relief above the speculative level." Bell Atlantic, 550 U.S. at 555.  
27 However, "[s]pecific facts are not necessary; the statement [of facts] need only 'give the  
28 defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" Erickson v.

1 Pardus, 551 U.S. 89, 93 (2007) (quoting Bell Atlantic, 550 U.S. at 555, citations and internal  
2 quotations marks omitted). In reviewing a complaint under this standard, the court must accept as  
3 true the allegations of the complaint in question, Erickson, 551 U.S. at 93, and construe the  
4 pleading in the light most favorable to the plaintiff. Scheuer v. Rhodes, 416 U.S. 232, 236  
5 (1974), overruled on other grounds, Davis v. Scherer, 468 U.S. 183 (1984).

## 6 II. PLAINTIFF’S COMPLAINT

7 As defendants, plaintiff identified R. Decker, Correctional Officer at Mule Creek State  
8 Prison (“MCSP”). (ECF No. 1 at 3.) Plaintiff also names John Does 1 and 2, identified as  
9 Correctional Officers who worked second watch at MCSP. (Id. at 4.) Plaintiff names John Does  
10 3 and 4, medical staff practitioner and first aid nurse, respectively, at MCSP. (Id.)

11 Plaintiff alleges that defendant R. Decker wrongfully denied plaintiff his shoes, and when  
12 plaintiff asked to speak to the sergeant to explain why plaintiff was entitled to get his shoes, R.  
13 Decker denied plaintiff’s request, and as plaintiff turned to walk away, R. Decker punched  
14 plaintiff in the face and head multiple times. (ECF No. 1 at 10-11.) Other officers rushed in and  
15 joined in punching and kicking plaintiff several times. (Id. at 11.) The officers then put plaintiff  
16 in a spit mask, which impeded his ability to breathe and see, and took plaintiff to the program  
17 office where the officers beat plaintiff some more. (Id. at 12.) Some time after the officers left  
18 plaintiff handcuffed behind his back, another officer came and put plaintiff into the cage and told  
19 plaintiff he was going to administrative segregation for alleged battery on a peace officer. (Id. at  
20 13.) R. Decker wrote the RVR asserting those charges. (Id.) Plaintiff alleges that R. Decker was  
21 deliberately not following the guidelines, and contends it was done in retaliation for plaintiff’s  
22 recently filed grievance for “defendant’s” refusal to allow plaintiff to participate in the prison  
23 Yoga group as “he” mentioned that plaintiff liked to file lawsuits and grievances. (Id. (citing Log  
24 No. 341695 MCSP) dated 12-17-2022).) Plaintiff provided multiple inmate affidavits in support.  
25 (Id. at 23-28.)

26 As a result of this incident, plaintiff sustained a swollen and bruised face, head  
27 concussions, black eyes, abrasions. (Id. at 17-18.) As relief, plaintiff seeks money damages. (Id.  
28 at 22.)

1 III. DISCUSSION

2 Plaintiff's 22 page complaint is not short and plain. Fed. R. Civ. P. 8(a). Plaintiff  
3 includes repetitive facts, lengthy explanations, comments about witnesses, justifications for his  
4 actions, comments about the Court reviewing the complaint, discusses the eye witness  
5 declarations he provides as exhibits, mentions other witnesses can be called at an evidentiary  
6 hearing, deposition, summary judgment, or jury trial, and lists his exhibits. (ECF No. 1, passim.)  
7 The inclusion of such extraneous information in the complaint unduly lengthens and confuses the  
8 pleading, making it difficult to ascertain the allegations and the specific claims plaintiff intends to  
9 pursue. As a result, the complaint is not short and plain, in violation of Rule 8(a)(2). Therefore,  
10 the complaint must be dismissed. See, e.g., Cafasso, U.S. ex rel. v. Gen. Dynamics C4 Sys., Inc.,  
11 637 F.3d 1047, 1059 (9th Cir. 2011) (complaints are subject to dismissal if they are "needlessly  
12 long," "highly repetitious, confusing, or consist of incomprehensible rambling"). The failure to  
13 comply with Rule 8 is a basis for dismissal that is not dependent on whether the complaint is  
14 without merit. See McHenry v. Renne, 84 F.3d 1172, 1177, 1179 (9th Cir. 1996) (affirming  
15 dismissal of complaint that was "argumentative, prolix, replete with redundancy, and largely  
16 irrelevant"). Even claims which are not on their face subject to dismissal under Rule 12(b)(6)  
17 may still be dismissed for violating Rule 8(a). See id. Plaintiff's pro se status does not relieve  
18 him of conformity to the pleading rules. See, e.g., Romano v. U.S. Army Core of Eng'rs, 2017  
19 WL 6448221, at \*1 (N.D. Cal. Dec. 18, 2017).

20 Although the Federal Rules adopt a flexible pleading policy, a complaint must give fair  
21 notice and state the elements of the claim plainly and succinctly. Jones v. Cmty. Redev. Agency,  
22 733 F.2d 646, 649 (9th Cir. 1984). Plaintiff must allege with at least some degree of particularity  
23 overt acts which defendants engaged in that support plaintiff's claim. Id. Because plaintiff has  
24 failed to comply with the requirements of Fed. R. Civ. P. 8(a)(2), the complaint must be  
25 dismissed. The Court will, however, grant leave to file a second amended complaint.

26 IV. GUIDANCE REGARDING AMENDMENT

27 The Court provides plaintiff the following substantive standards relevant to claims  
28 mentioned in his complaint, and plaintiff is advised whether or not he can state a potentially

1 cognizable civil rights claim as to plaintiff's allegations.

2 A. Excessive Force

3 The following legal standards apply to an excessive force claim. "In its prohibition of  
4 'cruel and unusual punishments,' the Eighth Amendment places restraints on prison officials, who  
5 may not . . . use excessive physical force against prisoners." Farmer v. Brennan, 511 U.S. 825,  
6 832 (1994) (citing Hudson v. McMillian, 503 U.S. 1 (1992)). "[W]henver prison officials stand  
7 accused of using excessive physical force in violation of the [Eighth Amendment], the core  
8 judicial inquiry is . . . whether force was applied in a good-faith effort to maintain or restore  
9 discipline, or maliciously and sadistically to cause harm." Hudson, 503 U.S. at 6-7 (citing  
10 Whitley v. Albers, 475 U.S. 312 (1986)). When determining whether the force was excessive, we  
11 look to the "extent of the injury. . . , the need for application of force, the relationship between  
12 that need and the amount of force used, the threat 'reasonably perceived by the responsible  
13 officials,' and 'any efforts made to temper the severity of a forceful response.'" Hudson, 503  
14 U.S. at 7 (citing Whitley, 475 U.S. at 321). While de minimis uses of physical force generally do  
15 not implicate the Eighth Amendment, significant injury need not be evident in the context of an  
16 excessive force claim, because "[w]hen prison officials maliciously and sadistically use force to  
17 cause harm, contemporary standards of decency always are violated." Hudson, 503 U.S. at 9  
18 (citing Whitley, 475 U.S. at 327).

19 It appears plaintiff may be able to state a viable excessive force claim against defendant R.  
20 Decker. That said, in his amended complaint plaintiff should focus his factual allegations on  
21 what R. Decker did, addressing each element of Hudson, 503 U.S. at 7, as set forth above.  
22 Similarly, if plaintiff contends that John Does 1 and 2 used excessive force, plaintiff must include  
23 facts showing the claim meets the elements of Hudson as well.

24 B. Property

25 Plaintiff cannot state a civil rights claim based on the deprivation of his shoes.

26 The United States Supreme Court has held that "an unauthorized intentional deprivation  
27 of property by a state employee does not constitute a violation of the procedural requirements of  
28 the Due Process Clause of the Fourteenth Amendment if a meaningful postdeprivation remedy for

the loss is available.” Hudson v. Palmer, 468 U.S. 517, 533 (1984). Thus, where the state provides a meaningful postdeprivation remedy, only authorized, intentional deprivations constitute actionable violations of the Due Process Clause. An authorized deprivation is one carried out pursuant to established state procedures, regulations, or statutes. Piatt v. McDougall, 773 F.2d 1032, 1036 (9th Cir. 1985); see also Knudson v. City of Ellensburg, 832 F.2d 1142, 1149 (9th Cir. 1987).

In the instant case, plaintiff has not alleged any facts which suggest that the deprivation was authorized. The California Legislature has provided a remedy for tort claims against public officials in the California Government Code, §§ 900, et seq. Because plaintiff has not attempted to seek redress in the state system, he cannot sue in federal court on the claim that the state deprived him of property without due process of the law. Plaintiff’s property claim is legally frivolous and should not be included in any amended complaint. See 28 U.S.C. § 1915(e)(2).

### C. First Amendment

Plaintiff fails to include sufficient information to state a First Amendment claim.

“Prisoners have a First Amendment right to file grievances against prison officials and to be free from retaliation for doing so.” Watison v. Carter, 668 F.3d 1108, 1114 (9th Cir. 2012) (citing Brodheim v. Cry, 584 F.3d 1262, 1269 (9th Cir. 2009)). A viable retaliation claim in the prison context has five elements: “(1) An assertion that a state actor took some adverse action against an inmate (2) because of (3) that prisoner’s protected conduct, and that such action (4) chilled the inmate’s exercise of his First Amendment rights, and (5) the action did not reasonably advance a legitimate correctional goal.” Rhodes v. Robinson, 408 F.3d 559, 567-68 (9th Cir. 2005).

Plaintiff must demonstrate how plaintiff’s protected conduct motivated the actions of defendant R. Decker. If plaintiff can identify his protected conduct, plaintiff must allege facts showing a nexus between his protected conduct and the alleged retaliatory act. See Brodheim, 584 F.3d at 1271 (a plaintiff must show that his protected conduct was the substantial or motivating factor behind the defendant’s conduct). Plaintiff’s speculation and conclusion that a defendant’s conduct was motivated by a desire to retaliate does not suffice to state a claim. See

1 Pratt v. Rowland, 65 F.3d 802, 808 (9th Cir. 1995) (noting that plaintiff’s “sheer speculation” that  
2 defendants had knowledge of his protected conduct was insufficient to show retaliatory intent);  
3 Frazier v. Dubois, 922 F.2d 560, 562 n.1 (10th Cir. 1990) (“Mere allegations of constitutional  
4 retaliation will not suffice; plaintiffs must rather allege specific facts showing retaliation because  
5 of the exercise of the prisoner’s constitutional rights.”). While timing may be considered  
6 circumstantial evidence of retaliatory intent, “timing alone is insufficient” to support an inference  
7 that prison officials took an adverse action against a prisoner in retaliation because of a prisoner’s  
8 participation in protected conduct. See Pratt, 65 F.3d at 808; Huskey v. City of San Jose, 204  
9 F.3d 893, 899 (9th Cir. 2000) (stating retaliation claim cannot rest on the logical fallacy of post  
10 hoc, ergo propter hoc, i.e., “after this, therefore because of this”).

11 D. Failure to Protect

12 Although plaintiff marked the box “threat to safety” and wrote “failure to protect,”  
13 plaintiff included no specific allegations as to defendant R. Decker, or any of the John Doe  
14 defendants, claiming that any defendant failed to protect plaintiff. Plaintiff is provided the  
15 following standards governing the claim.

16 A failure to protect claim under the Eighth Amendment requires a showing that “the  
17 official [knew] of and disregard[ed] an excessive risk to inmate . . . safety.” Farmer, 511 U.S. at  
18 837. “Whether a prison official had the requisite knowledge of a substantial risk is a question of  
19 fact subject to demonstration in the usual ways, including inference from circumstantial evidence,  
20 . . . and a factfinder may conclude that a prison official knew of a substantial risk from the very  
21 fact that the risk was obvious.” Id. at 842 (citations omitted). The duty to protect a prisoner from  
22 serious harm requires that prison officials take reasonable measures to guarantee the safety and  
23 well-being of the prisoner. Id. at 832-33; Frost v. Agnos, 152 F.3d 1124, 1128 (9th Cir. 1998).  
24 Because “only the unnecessary and wanton infliction of pain implicates the Eighth Amendment,”  
25 plaintiff must allege facts showing the defendant acted with a “sufficiently culpable state of  
26 mind.” Wilson v. Seiter, 501 U.S. 294, 297 (1991) (internal quotations marks, emphasis, and  
27 citations omitted).

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1 E. Medical Care

2 Similarly, although plaintiff marked the “medical” box, and named two medical staff as  
3 Doe defendants, plaintiff includes no facts explaining how an individual was deliberately  
4 indifferent to plaintiff’s serious medical needs. Following are the standards governing medical  
5 care claims.

6 To state an Eighth Amendment claim that a prison official is deliberately indifferent to an  
7 inmate’s serious medical needs in violation of the Eighth Amendment, the plaintiff must show  
8 that the prison official knew that a prisoner faced a substantial risk of serious harm and  
9 disregarded that risk by failing to take reasonable steps to abate it. Farmer, 511 U.S. at 837; Jett  
10 v. Penner, 439 F.3d 1091, 1096 (9th Cir. 2006). The two-part test for deliberate indifference  
11 requires plaintiff to show (1) “a ‘serious medical need’ by demonstrating that failure to treat a  
12 prisoner’s condition could result in further significant injury or the ‘unnecessary and wanton  
13 infliction of pain,’” and (2) “the defendant’s response to the need was deliberately indifferent.”  
14 Id. Under the relevant Eighth Amendment standard, “prison officials who actually knew of a  
15 substantial risk to inmate health or safety may be found free from liability if they responded  
16 reasonably to the risk, even if the harm ultimately was not averted.” Farmer, 511 U.S. at 844 (“A  
17 prison official’s duty under the Eighth Amendment is to ensure reasonable safety”) (internal  
18 quotation marks and citation omitted). To be deliberately indifferent in violation of the Eighth  
19 Amendment, a prison official must have a subjective “state of mind more blameworthy than  
20 negligence,” akin to criminal recklessness. Id. at 835, 839-40.

21 Negligence allegations are insufficient. Deliberate indifference “requires more than  
22 ordinary lack of due care.” Colwell v. Bannister, 763 F.3d 1060, 1066 (9th Cir. 2014) (quoting  
23 Farmer, 511 U.S. at 835). The indifference to the prisoner’s medical needs must be substantial --  
24 negligence, inadvertence, or differences in medical judgment or opinion do not rise to the level of  
25 a constitutional violation. Toguchi v. Chung, 391 F.3d 1051, 1060 (9th Cir. 2004) (negligence  
26 constituting medical malpractice is not sufficient to establish an Eighth Amendment violation).

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1 F. Doe Defendants

2 Plaintiff names four defendants as John Does. First, plaintiff does not identify each John  
3 Doe defendant's alleged act or omission which plaintiff contends violated his constitutional  
4 rights. This is insufficient to put prospective defendants on notice of their alleged actions or  
5 omissions that plaintiff claims violate his federal rights. In order to link these doe defendants to  
6 the alleged acts or omissions that demonstrate a violation of plaintiff's federal rights, plaintiff is  
7 granted leave to amend. If plaintiff can only list these defendants as John Doe, plaintiff must  
8 allege the specific acts that each doe defendants did, such as "John Doe 1 did X" and "John Doe 2  
9 and 3 did Y." Plaintiff is reminded that "[a] plaintiff must allege facts, not simply conclusions,  
10 that show that an individual was personally involved in the deprivation of his civil rights."

11 Barren v. Harrington, 152 F.3d 1193, 1194 (9th Cir. 1998).

12 Second, plaintiff's use of Doe defendants is problematic, see Gillespie v. Civiletti, 629  
13 F.2d 637, 642 (9th Cir. 1980), and ultimately unnecessary. Rule 15 of the Federal Rules of Civil  
14 Procedure, not state law "Doe" pleading practices, governs whether new defendants may be  
15 added and if so, whether the claims against them would relate back to the filing of the initial  
16 complaint. Should plaintiff learn the identities of the "Doe" parties he wishes to serve, he must  
17 promptly move pursuant to Rule 15 to file an amended complaint to add them as defendants. See  
18 Brass v. County of Los Angeles, 328 F.3d 1192, 1197-98 (9th Cir. 2003). If the timing of his  
19 amended complaint raises questions as to the statute of limitations, plaintiff must satisfy the  
20 requirements of Rule 15(c), which is the controlling procedure for adding defendants whose  
21 identities were discovered after commencement of the action. Additionally, unknown persons  
22 cannot be served with process until they are identified by their real names. The court will not  
23 investigate the names and identities of unnamed defendants.<sup>1</sup>

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26 <sup>1</sup> Where a defendant's identity is unknown prior to the filing of a complaint, the plaintiff should  
27 be given an opportunity through discovery to identify the unknown defendants, unless it is clear  
28 that discovery would not uncover the identities or that the complaint would be dismissed on other  
grounds. Wakefield v. Thompson, 177 F.3d 1160, 1163 (9th Cir. 1999) (citing Gillespie, 629  
F.2d at 642).

1 G. Misjoinder

2 Finally, plaintiff is cautioned that his excessive force claims and his claims concerning  
3 medical care should not be brought in the same action unless the same defendants were involved  
4 in both incidents. Rule 21 of the Federal Rules of Civil Procedure provides:

5 Misjoinder of parties is not a ground for dismissing an action. On  
6 motion or on its own, the court may at any time, on just terms, add  
or drop a party. The court may also sever any claim against a party.

7 Fed. R. Civ. P. 21. Rule 20(a) provides that all persons may be joined in one action as defendants  
8 if “any right to relief is asserted against them jointly, severally, or in the alternative with respect  
9 to or arising out of the same transaction, occurrence, or series of transactions or occurrences” and  
10 “any question of law or fact common to all defendants will arise in the action.” Fed. R. Civ. P.  
11 20(a)(2). See also George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007) (“Unrelated claims against  
12 unrelated defendants belong in different suits”). If unrelated claims are improperly joined, the  
13 court may dismiss them without prejudice. Fed. R. Civ. P. 21; 7 Alan Wright, Arthur Miller &  
14 Mary Kay Kane, Richard Marcus, Federal Practice and Procedure § 1684 (3d ed. 2012); Michaels  
15 Building Co. v. Ameritrust Co., 848 F.2d 674, 682 (6th Cir. 1988) (affirming dismissing under  
16 Rule 21 of certain defendants where claims against those defendants did not arise out of the same  
17 transaction or occurrences, as required by Rule 20(a)). Here, it does not appear that defendants  
18 John Does 3 and 4 were involved in the alleged excessive force incident and therefore are not  
19 properly joined in the same action raising excessive force claims.

20 H. Exhibits

21 With respect to exhibits, while they are permissible, Fed. R. Civ. P. 10(c), they are not  
22 necessary in the federal system of notice pleading, Fed. R. Civ. P. 8(a). Plaintiff is advised that it  
23 is not the duty of the court to look through all of his exhibits to determine whether or not he has  
24 claims cognizable under § 1983. Rather, the court looks to the factual allegations contained in the  
25 complaint to determine whether or not plaintiff has stated a cognizable claim for relief under  
26 § 1983. In fact, the court strongly recommends that exhibits should not be submitted where  
27 (1) they serve only to confuse the record and burden the court, or (2) they are intended as future  
28 evidence. If this action reaches the stage where the submission of evidence is appropriate and

1 necessary (e.g., summary judgment or trial), plaintiff will have the opportunity at that time to  
2 submit his evidence.

3 V. LEAVE TO AMEND

4 As noted above, plaintiff's complaint is dismissed with leave to amend. If plaintiff  
5 chooses to amend the complaint, plaintiff must demonstrate how the conditions about which he  
6 complains resulted in a deprivation of plaintiff's constitutional rights. See e.g., West, 487 U.S. at  
7 48. Also, the complaint must allege in specific terms how each named defendant is involved.  
8 Rizzo v. Goode, 423 U.S. 362, 371 (1976). There can be no liability under 42 U.S.C. § 1983  
9 unless there is some affirmative link or connection between a defendant's actions and the claimed  
10 deprivation. Rizzo, 423 U.S. at 371; May v. Enomoto, 633 F.2d 164, 167 (9th Cir. 1980).  
11 Furthermore, vague and conclusory allegations of official participation in civil rights violations  
12 are not sufficient. Ivey v. Bd. of Regents, 673 F.2d 266, 268 (9th Cir. 1982).

13 In addition, plaintiff is informed that the court cannot refer to a prior pleading in order to  
14 make plaintiff's amended complaint complete. Local Rule 220 requires that an amended  
15 complaint be complete in itself without reference to any prior pleading. This requirement exists  
16 because, as a general rule, an amended complaint supersedes the original complaint. See Ramirez  
17 v. Cnty. of San Bernardino, 806 F.3d 1002, 1008 (9th Cir. 2015) ("an 'amended complaint  
18 supersedes the original, the latter being treated thereafter as non-existent.'" (internal citation  
19 omitted)). Once plaintiff files an amended complaint, the original pleading no longer serves any  
20 function in the case. Therefore, in an amended complaint, as in an original complaint, each claim  
21 and the involvement of each defendant must be sufficiently alleged.

22 VI. CONCLUSION

23 In accordance with the above, IT IS HEREBY ORDERED that:

24 1. Plaintiff's request for leave to proceed in forma pauperis (ECF No. 2) is granted.

25 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. Plaintiff  
26 is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C.  
27 § 1915(b)(1). All fees shall be collected and paid in accordance with this court's order to the  
28 Director of the California Department of Corrections and Rehabilitation filed concurrently

herewith.

3. Plaintiff's complaint is dismissed.

4. Within thirty days from the date of this order, plaintiff shall complete the attached Notice of Amendment and submit the following documents to the court:

a. The completed Notice of Amendment; and

b. An original of the Amended Complaint.

Plaintiff's amended complaint shall comply with the requirements of the Civil Rights Act, the Federal Rules of Civil Procedure, and the Local Rules of Practice. The amended complaint must also bear the docket number assigned to this case and must be labeled "Amended Complaint." Failure to file an amended complaint in accordance with this order may result in the dismissal of this action.

Dated: September 19, 2025

  
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CHI SOO KIM  
UNITED STATES MAGISTRATE JUDGE

/l/arte1303.14n

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSE O. ARTEAGA,

Plaintiff,

v.

R. DECKER, et al.,

Defendants.

No. 2:25-cv-1301 CSK P

NOTICE OF AMENDMENT

Plaintiff submits the following document in compliance with the court's order  
filed on \_\_\_\_\_ (date).

☐

Amended Complaint

(Check this box if submitting an Amended Complaint)

DATED:

\_\_\_\_\_  
Plaintiff